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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,105	05/02/2001	Urs Mosimann	11006.00	7624

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DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER
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HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/848,105

Applicant(s)

MOSIMANN ET AL.

Examiner

Victor K. Hwang

Art Unit

3764

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-10 and 12-34 is/are rejected.
- 7) ☒ Claim(s) 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date <u>March 1, 2005</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
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**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on March 1, 2005 has been entered.

***Allowable Subject Matter***

2. The indicated allowability of claims 1, 2, 4, 6-10 and 12-34 is withdrawn in view of the newly discovered reference(s) to *Geraci* (US Pat. 4,743,010), *Gordon* (US Pat. 5,669,865), and *Keller* (DE 43 20 887 A1). Rejections based on the newly cited reference(s) follow.

3. Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claim 11 is allowed.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 7, 12, 21-23, 25, 27 and 29-34 are rejected under 35 U.S.C. 102(b) as being anticipated by *Gordon* (US Pat. 5,669,865). *Gordon* discloses (Figs. 1-5) an exercise device 10 comprising a frame 14 and a body extension mechanism. The body extension mechanism includes a press plate mechanism 90 comprising a four-bar linkage, the press plate mechanism operably connected to the frame.

The four-bar linkage comprises the upper portion of the vertical support column 26 as the ground link of the four-bar linkage. See the “Four bar linkage” article from Wikipedia as a reference for common linkage terminology. Attachment bar 136 is considered to be a grounded link that reads upon the second link pivotally connected to the frame, as described in claims 22, 23 and 27. The forward portion of the seat frame 64 between pivots 72 and 98 is considered to be a grounded link that reads upon the first link pivotally connected to the frame, as described in claims 22, 23 and 27. Frame member 94 is considered to be a coupler link that reads upon the top link pivotally connected with the first link rearwardly of the second link, as described in claims 22, 23 and 27.

The exercise device further comprises a seat structure having a seat 68 and a back support 56, the back support being pivotally connected with the frame, such as via brace 62 and bar 30. An over-center back adjustment mechanism 58 permits the orientation of the back support with

regard to the seat to be adjusted. The rear portion of the seat frame 64 between the pivots 72 and 64a is considered to read upon the claimed transfer link, having a first end operably connected with the press plate mechanism and a second end operably connected with the back support. A shock 80 (Fig. 1) is operably connected between the press plate mechanism and the frame.

The four-bar linkage and transfer link permit the movement of the seat structure, including the back support, to be coordinated with movement of the press plate mechanism. The press plate mechanism includes a foot press plate 140 connected to the top link 94. Movement of the foot press plate between a foot press plate rest position and an at least second foot press plate position is coordinated with movement of the seat structure between a seat structure rest position (Fig. 3) and an at least second seat structure position (Fig. 4).

7. Claims 12, 13, 16, 21, 29, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by *Geraci* (US Pat. 4,743,010). *Geraci* discloses an exercise device 10 comprising a frame 11; a foot press plate 41,42 pivotally connected with the frame with a four-bar linkage; a seat structure 29 pivotally connected with the frame; and a transfer mechanism 52 connected between the foot press plate and the seat structure so that movement of the seat structure is coordinated with movement of the foot press plate.

The transfer mechanism includes a transfer link 52 having a first portion pivotally connected at hinge 53 with the foot press plate and a second portion pivotally connected at hinge 55 with the seat structure. A body extension mechanism includes the foot press plate 41,42, the seat structure 29, and the transfer link 52. The four-bar linkage comprises a portion of the frame 11 as the ground link, the arm 16 as the first grounded link, the arm 34 as the second grounded

link, and the arm 47 as the top coupler link that is pivotally connected to the first link and the second link. The foot press plate 41,42 is connected with the top link 47 via the second link 34. The first link is rearwardly connected to the top link and the frame with respect to the second link.

Movement of the foot press plate between a foot press plate rest position and an at least second foot press plate position is coordinated with movement of the seat structure between a seat structure rest position (Fig. 2 and solid lines of Fig. 5) and an at least second seat structure position (phantom lines of Fig. 5). The dimension of the transfer link 52 is selected to provide a desired movement, but other relationships may be utilized when desired (col. 3, lines 16-26 and col. 4, lines 11-14).

### *Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 8-10, 12, 13 and 15-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Keller* (DE 43 20 887 A1) in view of *Geraci* (US Pat. 4,743,010). *Keller* discloses an exercise device (Fig. 1) comprising a frame 1 and a body extension mechanism. The body extension mechanism includes a foot press mechanism comprising a four-bar linkage, the foot press mechanism operably connected to the frame; a seat structure having a seat 2 and a back support 3, the back support being pivotally connected with the frame; and a transfer link 23

having a first end operably connected with the foot press mechanism and a second end operably connected with the back support.

The four-bar linkage comprises a portion of the frame 1 between the pivots 6 and 14 as the ground link; the lever 12 as the first grounded, rear link; the lever 5 as the second grounded, front link; and the lever 11 as the coupler top link. The rear link 12 is pivotally connected to a rear top link portion of the top link 11 at hinge 13 and to the frame 1 at hinge 14; and the front link 5 is pivotally connected at hinge 15 with a front top portion of the top link 11 and to the frame 1 at hinge 6 forwardly of the pivotal connection 14 of the rear link 12 to the frame 1. The foot press 8 is connected with the top link 11 via the second link 5.

A cable 20 is operably connected to between the body extension mechanism and a weight stack (Figs. 3a and 3b) having at least one weight plate 32. The movement of the body extension mechanism causes the transfer link 23 to move, thus tensioning the cable 20 to move the at least one weight plate 32, and as causing the back support 3 to pivot about its connection 4 to the frame 1. The weight stack is considered to be operably connected with the foot press mechanism, the seat structure, and the transfer link.

Movement of the foot press between a foot press rest position and an at least second foot press position is coordinated with movement of the seat structure between a seat structure rest position and an at least second seat structure position. The at least a second foot press position is further away from the seat structure than the foot press rest position. The at least a second seat structure position is further away from the foot press than the seat structure rest position. The pivotal back support pivots away from the foot press between the seat structure rest position and the at least a second seat structure position.

*Keller* does not disclose the foot press support 8 comprising a foot press plate (claims 1, 12, 25 and 29). The foot support 8 appears to be a round structure such as a foot bar to support the sole of a user's foot as the foot applies force to the foot support during exercise.

*Geraci* discloses an exercise device comprising a foot support in the form of a foot plate 41,42 for supporting the sole of a user's foot. The foot plate supports the entire sole of a user's foot and is pivotal to allow for natural foot positioning (col. 3, lines 63-64). *Geraci* also teaches that the dimension of the transfer link 52 is selected to provide a desired movement, but other relationships may be utilized when desired (col. 3, lines 16-26 and col. 4, lines 11-14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the exercise device of *Keller* with the foot plate of *Geraci*, in order to provide full support of a user's foot and to provide for natural foot positioning during exercise, as taught by *Geraci* (col. 3, lines 63-64).

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Keller* (DE 43 20 887 A1) in view of *Geraci* (US Pat. 4,743,010) as applied to claim 1 above, and further in view of *Yu* (US Pat. 5,580,340). *Keller* in view of *Geraci* discloses the invention as claimed except for the transfer link having a front portion defining a channel, and a rear link portion; the rear link portion being insertable in the channel so that the length of the transfer link is adjustable.

*Yu* discloses a transfer link 53 having an adjustable length. A front portion 532 of the transfer link defines a channel. A rear portion 531 of the transfer link is insertable in the channel so that the length of the transfer link is adjustable.



It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the transfer link of *Keller* in view of *Geraci* with an adjustable length, since *Geraci* teaches that other dimensions may be utilized when desired and *Yu* discloses a transfer link having an adjustable length, and adjustability, where desirable, is a modification that is within the skill of the art. In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954).

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Geraci* (US Pat. 4,743,010) in view of *Yu* (US Pat. 5,580,340). *Geraci* has been discussed above, and such discussion is incorporated herein. *Geraci* discloses the invention as claimed except for the transfer link having an adjustable length. *Geraci* discloses that the dimension of the transfer link 52 is selected to provide a desired movement, but other relationships may be utilized when desired (col. 3, lines 16-26 and col. 4, lines 11-14).

*Yu* discloses a transfer link 53 having an adjustable length.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the transfer link of *Geraci* with an adjustable length, since *Geraci* teaches that other dimensions may be utilized when desired and *Yu* discloses a transfer link having an adjustable length, and adjustability, where desirable, is a modification that is within the skill of the art. In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Stearns* (US Pat. 6,605,024 B2) and *Gottlob* (DE 298 01 626 U1) disclose exercise devices comprising body extension mechanisms.

*Wikipedia* ([http://en.wikipedia.org/wiki/Four\\_bar\\_linkage](http://en.wikipedia.org/wiki/Four_bar_linkage)) provides a description of four-bar linkages.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

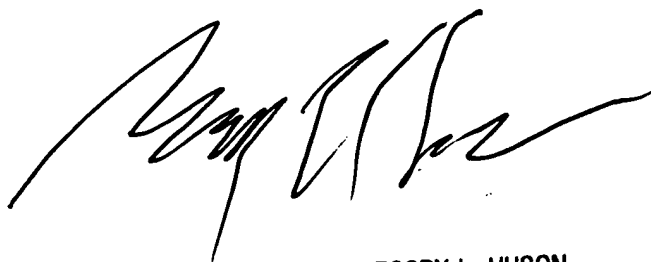
The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang  
March 30, 2006



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